



2026:AHC:57015

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1916 of 2026

Afroz Alam And 2 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Sr. Advocate, Yogendra Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 87

HON'BLE ABDUL SHAHID, J.

1. Heard Sri Akhilesh Singh, learned Senior Advocate, assisted by Sri Yogendra Yadav, learned counsel for the revisionists, and the learned A.G.A. for the State.

2. The present criminal revision has been filed by the revisionists against the impugned order dated 11.12.2025 passed by the learned Additional Sessions Judge/Special Judge (E.C. Act), Court No. 04, Deoria, in Sessions Trial No. 274 of 2024 (State vs. Afroz and two others), arising out of Case Crime No. 264 of 2023, under Sections 147, 148, 304, 323, 307, 336, 504, and 34 I.P.C., Police Station Maduadih, District Deoria.

3. Learned counsel for the revisionists has submitted that the F.I.R. was registered under Sections 147, 148, 302, 307, 336, 504, and 34 I.P.C. against the accused persons, namely: (1) Afroz, (2) Noor Ahmad, (3) Amina Khatun, (4) Sangeena, (5) Sakeena, (6) Mubarak Ali, (7) Arif, (8) Patru, and (9) Nazo Khatoon, whereas the charges have been framed against the revisionists.

4. Learned counsel for the revisionists has further submitted that, as per the post-mortem report of the deceased, she had suffered only two ante-mortem injuries, namely: (i) a lacerated wound measuring 1×0.5 cm on the dorsal aspect of the left thumb and the second finger of the left foot; and (ii) an abraded contusion, with multiple scratches present on the dorsal aspect of the third, fourth, and fifth fingers of the left foot. It is submitted that these injuries are not sufficient to cause death.

5. It has further been submitted that there is no homicidal death, and neither the ingredients of Sections 299, 304, nor 302 I.P.C. are made out. Learned counsel has also submitted that the cause of death of the deceased has been opined as cardio-pulmonary arrest due to ante-mortem myocardial infarction. He has further relied upon the statement of the doctor to submit that the deceased died due to a heart attack and that the death was not homicidal.

6. Learned counsel for the revisionists has relied upon the law laid down by the Hon'ble Supreme Court in **Vishnu Kumar Shukla versus State of U.P. and others, (2023) 15 SCC 502**. In the said criminal appeal, which pertained to Sections 454 and 380 I.P.C., a petition had been filed under Sections 482/378/407 Cr.P.C. He has relied upon paragraphs 22 and 23 of the said judgment, which are reproduced hereinbelow:

*"22. In a recent judgement viz. **State of Gujarat v Dilipsinh Kishorsinh Rao, 2023 INSC 89414**, this Court held:*

'7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

8. At the time of framing of the charge and taking cognizance the accused has no right to produce any material and call upon the court to examine the same. No provision in the Code grants any right to the accused to file any material or document at the stage of framing of charge. The trial court has to apply its judicial mind to the facts of the case as may be necessary to determine whether a case has been made out by the

prosecution for trial on the basis of charge-sheet material only.

9. *If the accused is able to demonstrate from the charge-sheet material at the stage of framing the charge which might drastically affect the very sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at that stage. The main intention of granting a chance to the accused of making submissions as envisaged under Section 227 of the Cr. P.C. is to assist the court to determine whether it is required to proceed to conduct the trial. Nothing in the Code limits the ambit of such hearing, to oral hearing and oral arguments only and therefore, the trial court can consider the material produced by the accused before the I.O.*

10. *It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged. ...xxx*

11. *The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 Cr. P.C. is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency.*

12. *The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.'*

(emphasis supplied)"

23. *On a careful conspectus of the legal spectrum, juxtaposed with our*

view on the facts and merits expressed hereinbefore, we are satisfied that there is no suspicion, much less strong or grave suspicion that the appellants are guilty of the offence alleged. It would be unjustified to make the appellants face a full-fledged criminal trial in this backdrop. In an appeal dealing with the refusal of the High Court to quash an FIR under Section 482, CrPC albeit, this Court, while setting aside the judgment impugned therein and quashing that FIR, took the view that '...the Appellants are to be protected against vexatious and unwarranted criminal prosecution, and from unnecessarily being put through the rigours of an eventual trial.' 15 The protection against vexatious and unwanted prosecution and from being unnecessarily dragged through a trial by melting a criminal proceeding into oblivion, either through quashing a FIR/Complaint or by allowing an appeal against an order rejecting discharge or by any other legally permissible route, as the circumstances may be, in the deserving case, is a duty cast on the High Courts. The High Court should have intervened and discharged the appellants. But this Court will intervene, being the sentinel on the qui vive."

7. Learned A.G.A. has opposed the criminal revision. The F.I.R. was lodged under Section 302 I.P.C.; however, after investigation, a charge-sheet has been filed under Sections 147, 148, 304, 323, 307, 336, 504, and 34 I.P.C. The learned trial court has rejected the discharge application by a detailed order, observing that the incident occurred due to a land dispute on 24.12.2023, that there are eye-witnesses, and that the deceased died on the same day of the incident. The revisionists are named in the F.I.R.

8. The learned trial court has specifically held that, as per the inquest report, the deceased had suffered injuries on her left leg, and severe bleeding was oozing from the urethral and anal regions. There were two ante-mortem injuries on the body of the deceased. She died due to cardio-pulmonary arrest caused by an ante-mortem myocardial infarction. It has further been recorded that, as per the statement of Dr. C.P. Tiwari, the deceased had suffered physical assault and multiple injuries. Dr. Moolchand, who conducted the post-mortem examination, stated that the deceased had injuries on her left leg and the thumb of her left hand, and that the cause of death was a heart attack.

9. Both doctors have supported the allegation that the deceased was assaulted. It was further observed by the trial court that the deceased was about 65 years of age and had been beaten by the accused persons along with

their family members. The accused are pattidars/family members and were well aware of the age of the deceased. The cause of the heart attack, the relationship between the injuries sustained and the death, and their interrelation are matters to be determined after the recording of evidence.

10. The deceased was an elderly lady who suffered assault, sustained injuries, and died on the same day of the incident. The incident is alleged to have been committed by nine persons. Hence, prima facie, the offence appears to be made out for trial. At this stage, neither a mini trial can be conducted nor can findings be recorded on merits. The learned trial court has passed a reasonable and justifiable order on the discharge application.

11. There is neither any illegality or irregularity in the impugned order.

12. The criminal revision is liable to be dismissed and it is dismissed accordingly.

March 19, 2026
K.K. Maurya

(Abdul Shahid,J.)